

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

FITISTICS, LLC,)	
)	Case No. 1:16-cv-00112-GBL-JFA
Plaintiff,)	
)	
v.)	
)	
ERIK B. CHERDAK, ESQ.,)	
)	
Defendant.)	

PROPOSED STIPULATIONS OF FACT

1. On or about December 12, 2012, Fitistics and Cherdak entered into the copyright assignment agreement.
2. The copyright assignment agreement was negotiated between Cherdak and McKirdy on behalf of Fitistics.
3. The signed, final executed version of that copyright assignment agreement is authentic.
4. On September 3, 2013, Cherdak commenced litigation against KoKo in the U.S. District Court for the Eastern District of Virginia, which action was subsequently transferred over Cherdak's objection to the U.S. District Court for the District of Massachusetts (Boston).
5. Cherdak brought patent and copyright infringement claims against Koko.
6. Cherdak is an attorney.
7. McKirdy is not an attorney.
8. The signed, final Patent Rights Assignment Agreement is authentic.
9. Each signed license agreement, settlement agreement, or other agreement between Cherdak and a third party produced by the third parties in this case is authentic.
10. The following signed agreements between Cherdak and third parties are authentic:
 - a. Garmin International, Inc.
 - b. Virgin Pulse, Inc.
 - c. Kersh Risk Management LLC
 - d. Google, Inc.
 - e. PT Fit Redefined, LLC
 - f. Starwood Hotels & Resorts Worldwide, Inc.
 - g. Aliphcom d/b/a Jawbone

- h. Johnson Healthtech Co. Ltd.
- i. Brunswick Corp.,
- j. Technogym USA Corp.
- k. Hanger, Inc.
- l. Blue Cross and Blue Shield Association

11. The following final, signed agreements between Cherdak and third parties are admissible:

- a. Garmin International, Inc.
- b. Virgin Pulse, Inc.
- c. Kersh Risk Management LLC
- d. PT Fit Redefined, LLC
- e. Starwood Hotels & Resorts Worldwide, Inc.
- f. Aliphcom d/b/a Jawbone
- g. Johnson Healthtech Co. Ltd.
- h. Brunswick Corp.,
- i. Technogym USA Corp.
- j. Hanger, Inc.
- k. Blue Cross and Blue Shield Association
- l.

DATED: August 17, 2016

Respectfully submitted (on behalf of both parties, with the consent of Defendant's counsel),

/s/ John Ferman

Quentin R. ("Rick") Corrie, VSB #14140
John D.V. Ferman, VSB# 70980
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ATTORNEYS FOR PLAINTIFF
FITISTICS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of August 2016, a true and correct copy of the above PROPOSED STIPULATIONS OF FACT was filed via the CM/ECF system, which will send notice (NEF) to counsel for Defendant listed below and constitutes service under the rules, and a courtesy copy will be e-mailed to counsel for Defendant at the e-mail address listed below.

Michael C. Whitticar, Esq.
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/s/ John Ferman
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*ATTORNEYS FOR PLAINTIFF
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